



DEPARTMENT OF HEALTH & HUMAN SERVICES

Exhibit A

Office of the Secretary
Office for Civil Rights
Washington, D.C. 20201

August 16, 2018

Barbara R. Snyder, J.D.
Office of the President
Case Western Reserve University
10900 Euclid Avenue
Adelbert Hall 216
Cleveland, OH 44106

Pamela B. Davis, M.D., Ph.D.
Dean, School of Medicine
Senior Vice President for Medical Affairs
Case Western Reserve University
2109 Adelbert Road BRB 113
Cleveland, OH 44106

HHS OCR Transaction Number: 17-279418

Dear President Snyder and Dr. Davis:

The U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR) has completed its compliance review of Case Western Reserve University (CWRU) School of Medicine.

BACKGROUND AND LEGAL AUTHORITY

The CWRU School of Medicine receives federal financial assistance from the HHS National Institutes of Health (NIH). HHS OCR conducts investigations and periodic reviews of HHS grantees for compliance with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex in educational programs or activities that receive federal financial assistance.¹ HHS' Title IX implementing regulation at 45 C.F.R. Part 86 requires recipients of federal financial assistance to adopt and publish procedures for the prompt and equitable resolution of student and employee Title IX complaints. The regulation also requires recipients to designate at least one employee to coordinate its Title IX compliance efforts and to carry out its Title IX responsibilities, including the investigation of complaints or allegations of noncompliance with Title IX.

1. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. Section 1681, et seq., and its *implementing regulation*, 45 C.F.R. Part 86 (collectively Title IX). The Department's Title IX regulations provide that "the procedural provisions applicable to title IV of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference. These procedures may be found at 45 CFR 80-6 through 80-11 and 45 CFR Part 81." 45 C.F.R. § 86.71; *see also* 20 U.S.C. § 1682 (which tracks the enforcement language of Title VI.) Title VI of the Civil Rights Act of 1964 states that OCR will "from time to time review the practices of recipients to determine whether they are complying with this part." 45 C.F.R §80.7(a).

FINDINGS

HHS OCR evaluated the CWRU School of Medicine's nondiscrimination policies and procedures, including its Sexual Misconduct Policy, Title IX grievance procedure, and the extent to which CWRU School of Medicine's Title IX Coordinator implements the School's Title IX compliance program.² The review also assessed whether the CWRU School of Medicine complies with Title IX notification and dissemination requirements and examined its outreach and recruitment efforts.³

Non-Discrimination Policy

CWRU's non-discrimination policy and procedures promote university-wide Title IX compliance and cover students, employees, and applicants for employment and admission to CWRU. The CWRU School of Medicine follows the same university-wide non-discrimination policy.

Grievance Procedures and Enforcement

CWRU's Title IX Coordinator leads CWRU's centralized Title IX Office and oversees all aspects of Title IX investigations and prevention and education programs university-wide, including investigating grievances involving the CWRU School of Medicine. CWRU's website and its Sexual Misconduct Policy provides instructions for filing a Title IX complaint, describes the investigative process, and provides information about campus and off-campus support resources. CWRU's Title IX investigative procedures include interviews with the complainant, the respondent and witnesses, as well as reviewing relevant records such as phone records, emails and social media. CWRU's Title IX office aims to investigate and resolve complaints within 60 days of their receipt. During 2014 – 2017, the CWRU School of Medicine had three Title IX complaints filed by students against other students; two filed by students against employees; and one filed by an employee against another employee. The resolution of these complaints ranged from, issuing "no contact directives" and academic schedule modifications, up to academic suspension and termination of employment. All of these investigations were resolved, on average, within 38 days. HHS OCR evaluated CWRU's grievance and enforcement policies and activities. The review found no indication of unfairness in their procedural mechanisms.

Notification

CWRU's Title IX website and poster program informs faculty, staff and students about their rights under Title IX and their responsibilities to prevent and report Title IX and sexual misconduct. The website and poster program explains Title IX and sexual misconduct; describes multiple educational prevention resources; and provides an overview of the sexual misconduct policy, bystander intervention strategies, and campus support resources. The website and poster program also provides information on how to submit complaints to the CWRU Title IX Office and law enforcement.

2. 45 C.F.R. § 86.8; 45 C.F.R. § 86.9

3. 45 C.F.R. § 86.23; 45 C.F.R. § 86.53; 45 C.F.R. § 86.9

Training

The CWRU Title IX Office conducts annual, in-person Title IX training for incoming medical students and the School of Medicine's faculty and staff. The training for incoming medical students is one and a half hours and covers the following: information on sexual assault, harassment and other sexual misconduct; the requirements of Title IX; individual's rights under Title IX; and the CWRU Title IX complaint/investigation process. Medical students are also required to sign the Teacher Learner Relationship Agreement at the beginning of their first year, end of their second year, and middle of their third year in school. The Agreement describes the CWRU School of Medicine's mistreatment and sexual misconduct standards, and outlines how complaints of discrimination, including Title IX grievances, should be reported and investigated. Similar trainings are provided for faculty and staff by the CWRU Office for Inclusion, Diversity and Equal Opportunity (OIDEO) on sexual misconduct and the applicability of Title IX in employment.

Recruitment and Admissions

HHS OCR reviewed samples of CWRU webpages, social media and in-person outreach and recruitment efforts for the CWRU School of Medicine and found no evidence that CWRU School of Medicine discourages recruitment or admittance for male or female applicants.

Area of Concern and Technical Assistance

Although CWRU has a university-wide Title IX policy and training program, these materials only refer individuals to the U.S. Department of Education's OCR, CWRU's Title IX Office, and local law enforcement. Therefore, CWRU School of Medicine's students, employees and applicants are not provided information about their rights and how to file complaints under Title IX with HHS OCR.

Therefore, we recommend CWRU School of Medicine include the following information about HHS OCR⁴ in its Teacher-Learner Relationship Agreement and other Title IX materials for students, applicants, faculty and staff at the CWRU School of Medicine:

U.S. Department of Health and Human Services
Office for Civil Rights
200 Independence Avenue, SW
H.H.H. Building, Room 509-F
Washington, D.C. 20201
www.hhs.gov/ocr
1-800-368-1019 / 1-800-537-7697 (TDD)
OCRMail@hhs.gov

4. For a brochure on HHS OCR, visit: www.hhs.gov/sites/default/files/ocr_civilrightsprivacybrochure.pdf

CONCLUSION

HHS OCR did not find evidence that the CWRU School of Medicine violated Title IX and has closed this compliance review. HHS OCR's determination applies only to the matters addressed in the review and does not cover any issues or authorities not specifically addressed herein. Nor does the determination preclude future compliance determinations based on subsequent investigations.

ADVISEMENTS

Individuals may not be intimidated, threatened, coerced, discriminated or retaliated against for making a complaint or testifying, assisting or participating in any manner in an investigation, proceeding, or hearing held in connection with the statutes or regulations enforced by HHS OCR. Individuals who believe that they are being subjected to such discriminatory or retaliatory conduct based on a complaint filing with HHS OCR or participation in an investigation may file a complaint with OCR.

Thank you and your staff for your cooperation throughout the compliance review process. Feel free to contact us or visit our website at www.hhs.gov/ocr if you have questions or need technical assistance.

Sincerely,

/s/

Luben Montoya
Section Chief
Civil Rights Division

cc: Darnell Parker
Title IX Coordinator
Associate Vice President for Student Affairs
Case Western Reserve University
10900 Euclid Avenue
Adelbert Hall, Room 110
Cleveland, OH 44106